SESSION UPDATE

# Senator Adam Kline

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## Senator Adam Kline

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- Judiciary (Chair)
- Government Operations & Elections
- Rules

### Dear Neighbors,

First, let me thank you personally – well, as personally as this newsletter permits – for re-electing me as your Senator. Thanks, too, for sending Rep. Santos and Rep. Pettigrew to Olympia with me. It's an honor to represent such a politically active, inquisitive, thoughtful and progressive bunch of folks. Over the last ten years, I've kept many of the notes and e-mails I've received because they were too well-written, or too insightful, or just too funny to throw out. I've had way too much fun at this job already, and I look forward to four more years. As my daughter used to say, you guys are way cool!

Here's what's up inside this Newsletter:

In this part of town, we are strong believers in **public education**, that Great Equalizer, and we are simply not satisfied with the way our K-12 education system is funded. I believe that many of the problems we see playing out in our Seattle schools and in our School Board's debates are reflections of **inadequate state funding** that come from Olympia. We'll most likely have the votes, with our new Democratic members, to pass out to the voters a constitutional amendment allowing simple majorities to pass local school levies. But that won't get us to the root of the problem that plagues the Seattle Schools. I recall a personal meeting with John Stanford, and think wistfully of what might have been. For those willing to brave the statistics demonstrating our state's abject **failure to fund urban schools**, see *A Citizen's Guide to Washington State K-12 Finance*, available at www.leg.wa.gov/Senate/Committees/WM/.

While crime has abated since the days when Columbia City and parts of the Rainier Valley were boarded-up and economically dying, we have yet to get a handle on **gun violence**. I believe that we have a window of opportunity to enact a law that will seriously reduce criminals' access to guns, particularly the handguns most often used in crime.

Speaking of the bad old days when Columbia City and points south were an economic wasteland, our problem now is the direct opposite – the pendulum has swung to an economic upturn, and past that to a gradual **gentrification** that is raising property values to record heights. Word has it that some long-term Rainier Valley residents are being taxed beyond their incomes, and are being forced to sell. That, combined with a 2005 decision of the Supreme Court allowing cities to condemn "blighted" property and to enter into redevelopment agreements with private buyers, is causing a stir.

**Identity Thieves** have made deadbeats out of some honest folks, taking much more than their money. Here are a few things we aim to do about it.

As our state's prisoners complete their terms and re-enter society, we see the consequences of a Corrections system designed and funded more to **warehouse people** than to assist them in their own rehabilitation. An inside look is provided by Bryn Houghton, my legislative aide.

**Small business' health care plans** are getting another look from the legislature.

Again, it's **way too much fun** being your Senator. Call me if there's anything in this newsletter that makes you glad, mad, or sad. Call me if you need emergency political therapy, or even if you don't.

Adam Kline

# Seriously Tough on Crime: Closing the Gun-Show Loophole

It took seven years for Congress to pass the Brady Handgun Violence Prevention Act of 1993. This federal law has done quite a lot to decrease the rate at which Americans kill each other, by requiring a background check and five-day waiting period before the purchase of a handgun from a licensed dealer. The five-day waiting period was passed with a sunset clause, which Congress allowed to expire in 1998, substituting the computerized National Instant Check System (NICS), which now provides the information for criminal background checks on all firearm purchasers, not just those buying handguns, in minutes or hours.

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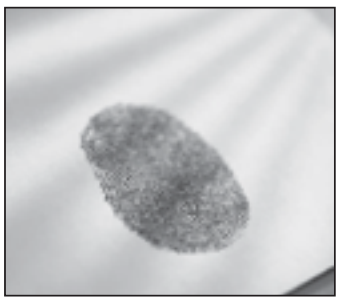
According to the U.S. Department of Justice, during the first six years after the Brady Law went into effect, background checks nationwide stopped over 600,000 felons and other prohibited purchasers from buying firearms from federally licensed firearm dealers. Murderers, spouse abusers, gun traffickers and fugitives from justice – 100,000 per year – have been denied purchase of handguns, and some apprehended on warrants, because of the background check required by the Brady Law. The NRA still argues that the "bad guys" get their guns on the streets, but the checks themselves proved that criminals in large numbers tried to buy their guns in gun stores.

In the first four years of background checks, the overall proportion of aggravated assaults involving a firearm fell by 12.4%. The FBI Uniform Crime Report for 1997 shows that gun homicides had declined by 24% since 1993; robbery with firearms by 27%; and aggravated assault with firearms, by 26%. *Had those crimes been going* up *by those percentages, it would have been a crime wave of monstrous proportion.*

By 1998, a study of the Bureau of Alcohol, Tobacco and Firearm's database of firearms trace information showed that the Brady Act had disrupted established gun trafficking patterns by closing off access to guns in traditional "source states," meaning those states with lax gun laws. The study provided important evidence that the regulation of handgun sales is an effective means of interfering with the illegal gun market – disproving the old bumper-sticker phrase that only law abiding citizens are affected by gun laws.

Yet Congress had specifically left it to the states to regulate gun shows, rather than include them in the federal act. This means that instead of an effective nationwide system of background checks, we have a 50-piece crazy quilt, states that require checks at shows right next to others that don't – and the black market has adapted quite well. It's fair to say that criminals have gotten more sophisticated, and have learned to go shopping where no questions are asked. It's time we asked questions.

This year, I am co-sponsoring SB 5197, which eliminates the gun-show loophole, and extends background checks to gun sales anywhere in Washington. I expect that it will draw fire from the very legislators who most consider themselves Tough on Crime. The gun lobby will be out in force, ready to light up the phones of any lawmaker who exhibits a sign of common sense. The success of this bill is hardly assured. But I believe that the safety of our communities depends heavily on my colleagues' willingness to take a stand.




# Prisoner Re-Entry

This past March, when the Legislature ended the 2006 session, I asked my aide, Bryn Houghton, to sit in on the proceedings of the Prisoner Re-Entry Task Force, a panel established last session to study the state prisons' rehabilitative programs and their effect on recidivism and on the lives of prisoners back on the outside. I was not at all surprised that she spent the past spring, summer, and fall as an unofficial member of the task force, along with legislators, Corrections officials, law enforcement representatives, and other elected and Governor-appointed members. The panel's recommendations have come before the Legislature this year. Here is Bryn's report:

The debate about criminal justice often begins and ends with demands to "lock'em up," as if the simple act of incarceration solves our need to deter crime, increase public safety, and rehabilitate law-breakers. When adjusted for the rise in population, Washington's incarceration rate has *tripled* since the 1970's. Now, with ever more punitive sentencing laws, Washington's current incarceration rate is expected to increase by 23% in just the next few years.

Clearly we need a practical examination of the costs and efficacy of our system of criminal justice. This examination is crucial, whether our perspective is that of a concerned citizen and taxpayer, a victim of crime, a perpetrator of crime, or the family, friends and community of a victim or offender.

Incarceration is expensive: the average cost of keeping just one person in our state facilities is $29,000 each year. This doesn't include the costs of *sending* people to prison, such as arrest and court costs; nor does it include the social costs of incarceration on prisoners' families and communities. It costs more to just imprison someone than it would be to provide education, housing and health care to a child for that same amount of time. We need to ensure that incarceration is used effectively.

We neglect to examine what happens at the *end* of incarceration, when the offender is released from prison. About 97% of prisoners are released from prison, most within three years of entering. In the last five years, more than half of all ex-prisoners have "recidivated," or committed another

crime that leads to further incarceration. This recidivism rate has risen by more than 15% in the last decade. What are we doing that contributes to this trend?

Certainly, there are some dangerous people who need to be locked for the rest of their lives. But since 97% of offenders will be released back into our communities, shouldn't we make sure that they reintegrate as law-abiding citizens, able to earn a living legally and be contributing members of their families and communities? Instead of ending the debate at just the lengths of sentences, we desperately need to gear all of our criminal justice programs towards the *successful re-entry of ex-offenders into the community.*

With this in mind, a bipartisan Re-entry Task Force composed of legislators and agency heads worked during the interim between legislative sessions to develop a comprehensive set of recommendations regarding re-entry. The general goals of the Task Force were to find ways to increase public safety, maximize the rehabilitation of offenders, decrease recidivism, and make effective use of public money. The Task Force heard from

more than 90 citizens from a variety of backgrounds, including ex-prisoners, law enforcement officers, correction officers, social workers, educators and crime victims. As I write this, many legislators are developing legislation based on the recommendations of the Task Force.

In the older, narrow sense, "re-entry" happens when a prisoner is released from prison. The Task Force based its work on the proposal that we need to think of re-entry as a *process* that begins at arrest and continues through community reintegration.

Our state's consideration of re-entry policies is part of a national trend. Many state legislatures now recognize that just sending people to prison doesn't solve our problem. And this past year, the Republican-controlled Congress nearly passed the Second Chance Act, which would have provided grants to states to develop comprehensive re-entry programs, including prison education programs, re-entry preparation, transitional housing, and work release programs. The legislation was proposed by a Republican who has received many second chances: George Bush.

Many proponents of the "lock'em up" crowd argue that subsidizing re-entry programs is just another form of coddling criminals or being "soft on crime." Even some progressives, aware of the dangerous lack of access to affordable educational, health care and treatment programs for large segments of our state's law-abiding population, question investing public dollars to assist convicted criminals. We wonder if our children will have to go to prison in order to get a good education or treatment for their substance abuse problems.

If we invest wisely in re-entry programs, we'll free up more public money for other public programs. Last year, the legislature requested that the Washington State Institute of Public Policy (WSIPP) conduct a comprehensive year-long study of the cost-effectiveness of re-entry programs. WSIPP examined more than 500 rigorous studies of a wide variety of re-entry programs, and came up with convincing evidence that certain programs are an extremely good investment. For example, for every $1 invested in effective prison vocational programs, we can "recoup $12 in reduced costs for law enforcement, courts and incarcerations due to recidivism."

The best way to "fight crime" is to prevent it from happening. The job of the Department of Corrections and other criminal justice agencies is to separate and house those who are a danger to us, and to prepare those who will be released to be better citizens.

*Bryn Houghton*

## Here are some highlights of the improvements recommended by the Task Force:

We should develop more accurate methods of predicting which offenders are appropriate candidates for alternatives to incarceration, and strengthen effective alternatives such as drug courts and Drug Offender Sentencing Alternatives (DOSA).

The Department of Corrections should work with prisoners to develop a detailed individualized plan of action, to provide guidance regarding the specific needs of the prisoner during his/her incarceration and post-custody supervision. The plan would take into consideration the prisoner's needs, interests, and abilities, and would include plans for prison work assignments, mental health and substance-abuse treatment, and education and vocational training, among other things. Prisoners would have the opportunity to earn limited "early release" time if they successfully complete certain programs.

Since we expect prisoners to succeed when they are released, we need to give them access to effective secondary and post-secondary educational programs, vocational training, work programs, and substance abuse and mental health treatment while they are incarcerated.

We should strengthen and expand work release programs, as well as local community-based systems of collaboration and coordination between public and private service providers, Community Corrections Officers, and work release facilities. This could provide the newly released prisoner a variety of services, such as training and employment programs, substance abuse and mental health treatment.

We should repeal laws and regulations that needlessly segregate ex-prisoners from the rest of the community and may deter them from being productive citizens. It's difficult to be a contributing member of your community if you are homeless and unemployed, and the Task Force recommends removing unnecessary obstacles that keep ex-prisoners from employment and housing. The Task Force also recommends that we restore voting rights to former felons upon their release from prison, rather than waiting until they are done with their probationary period and have paid all of their legal financial obligations.

# K-12 Education Funding

"It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex."

**~ Washington Constitution, Article IX, Section 1**

Here in Southeast Seattle we understand very well the role of public education in the futures of our children. It is, in the words of our former Governor, the Great Equalizer, that we pay attention more than most folks to the School Board's performance in administering the local schools. They are currently at the center of the years-long controversy over school closures needed to keep the District solvent, but their decisions were not its sole cause. The immediate causes are the surfeit of classroom space following a decline in Seattle's school population, and a chronic shortage in state funding.

Perhaps it's our misfortune to be a city of progressive folks willing to spend what it takes in taxes to do the right thing by our kids – and not just our own, for we whose own kids are grown recognize the advantage to our culture and our economy in having a first-class public educational system. In Washington, it's not supposed to be the local school district that funds basic education, but the state – and the state's failure, I believe, is a major contributing factor to our School Board's problems.

Some years back, when John Stanford took the job of Superintendent of the Seattle Schools, he came to Olympia and lobbied us personally to change the formula by which K-12 funds are distributed to the state's 296 school districts. For several years, the percentage of the State's operating budget which went to K-12 education had been decreasing – and the decrease continues to this day, for we are down from 47.6% in the 1993-95 school year to 42.1% currently. But Gen. Stanford wasn't seeking to have the State increase the percentage of its budget that went to K-12; he was simply seeking a change in the *distribution*.

The rather complex distribution formula, then and now, *seemed* to take into account not just the number of children enrolled in a district – the most basic element, of course – but at least some of the characteristics of those students who affect the cost of providing effective teacher-time for them. In addition to a basic per-student grant, there was a small additional grant for each student in special education classes, an amount for those temporarily needing bilingual education, and an amount for those needing remedial classes. (The latter was based on the free- or reduced-price lunch program, a rough index of poverty, rather than on the actual need for remedial classes.) These additional amounts were entirely inadequate to their tasks – they came nowhere near the actual additional costs of providing effective teacher-time for those students. They're still inadequate. Even in the 2005-06 school year, the remedial program yields a meager $187 per average eligible child. Gen. Stanford wanted us to impose on the Superintendent of Public Instruction a realistic "Weighted Student Formula," similar to the Seattle Schools' internal distribution formula.

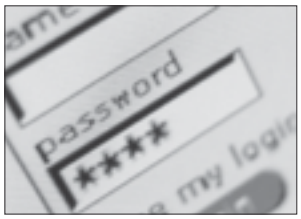
This was no small request. Its fiscal impact on the state budget was zero, but it would have drastically re-allocated funds from suburban districts to rural and urban districts. Rural poverty was reflected in high percentages of students receiving free or reduced-price lunch service, and this change would have slightly favored some rural districts, but the greater change would have come to districts like ours, with not only a high poverty rate, but an extremely high rate of children from families who speak languages other than English at home, a somewhat higher special-ed ratio, and a willingness to actively seek out and educate the children of homeless families.

His proposal made way too much sense, and with little support outside Seattle and Tacoma, the idea went nowhere. As a result, Seattle Schools are struggling to make do with a wholly inadequate state funding formula. Whatever one may feel about the current Board's efforts to reach a fair decision on school closures, one can't help but wonder how much easier their job might be with better cooperation from Olympia.

This year, we can look forward to at least one long-sought victory, for the chances are that with the new Democratic majority we'll finally pass out a constitutional amendment that, once ratified by popular vote, will allow simple majorities of 50%-plus-one to pass local school levies to help pay the cost of maintaining and operating the schools. Currently, a 60% super-majority is needed. This is a much-needed improvement, but it still leaves Seattle voters and taxpayers paying about one-third of the Schools' operating budget locally. Now let's see if in the next few years we can get to the root of the problem.

# ID Theft

The news reports have been downright scary, with story after story of ordinary folks suddenly confronted with insurmountable debt, forced into bankruptcy, poverty, and sometimes depression or divorce, because someone had obtained false credit cards or a checking account in their names, and run up bills, or even sold major assets. This past summer, it happened to me. Someone opened a checking account in a Seattle bank under the name Adam J. Klein, with an address on the next street over from mine, and went shopping in California. I was lucky that he or she didn't run the tab past $160, and anyway the merchants or bank apparently took the loss, though they'll pass it back to all of us in the form of higher fees and costs.




Because this is in some instances a "new" crime – that is, a wrong that we feel ought to be punished, but isn't quite defined in our criminal laws – your legislators have a real job to do. In the Judiciary Committee, we'll have a bill that will define the offense by its various elements, and will create two degrees as Class B and Class C felonies. The guy who steals a database of identities from his employer (or yours) and makes them available to others, or whose fraudulent act exposes the identities of large numbers of people, or who inflicts damage over a certain amount, will commit a Class B felony good for up to ten years as a guest of the State of Washington. The guy who just goes shopping will commit a Class C felony, good for a year. Another bill will extend our state courts' jurisdiction over companies that do business here from locations elsewhere, thus allowing judges to issue subpoenas for business records (credit card statements, purchase orders, etc.) that may be evidence to support prosecutions.

Look, I'm hardly a fervent "lock 'em up" legislator. I've spent most of my ten years here arguing for more rational sentencing ranges, for greater discretion in the hands of judges, and for drug treatment as a replacement for some prison time when needed. But this is a classic exercise in creating a prohibition against a new form of criminal enterprise. Given the damage that can be done to the lives of victims, I'm looking forward to a bill that can pass the Legislature unanimously.

# Another Take on ID Theft

Criminal laws put dangerous people behind bars; they punish, and to a lesser degree they deter crime. But I think we pay too little attention to the preventative steps that government can take to protect its citizens. State and local governments, like many private businesses, collect data that includes personally identifying information on many citizens. As identity theft becomes more common, I propose that the State make a list of the databases held by each department or agency of state government that contain personal information, and see to it that they're subject to a meaningful standard of security. Then before the next session, a commission established by the Legislature should review these databases and the general nature of the data in them, and should come to the full Legislature with a set of rules concerning what information each agency needs, and regulating the future collection and storage of personal information. That's the purpose of SB5869, which I will re-introduce again this year. Last year, as SB 6344, it passed the Senate unanimously, but died in the House.

Here's my thinking. One cause of the problem goes back 30 years. The Public Disclosure Act was passed by Initiative in 1976, and was one of the first laws of its kind anywhere. It was a radical attempt to make state and local government "transparent" to the voters and taxpayers, so nothing would be hidden from view. Anyone could seek and obtain any information state or local government had. There were few exceptions: pending personnel matters of state and local employees, the medical and psychiatric records of folks in public institutions, and a few others. It soon became apparent that what was really needed was greater balance between disclosure and privacy, and this took the form of many specific exceptions being added on by amendment, several per year, until now there are about 80 or 85. There has to be an exception for anything if it is to be held non-disclosable, because the law itself says that everything is presumed disclosable unless specifically exempted.

The impulse to disclose government's information to anyone who asks has made Washington one of the least corrupt states in the Union. When I grew up Back East, it was common to read in the papers of federal investigations into this politician or that, and allegations that high officials had profited by using insider knowledge – as when the Governor of Maryland almost went to the federal pen for buying land that just happened to be chosen for one end of the Chesapeake Bridge-Tunnel. We don't have a whole lot of that here, and I think that's because of this state's culture of transparency and disclosure. Plus, we're just so doggone *nice*.

Still, good laws create balance between competing interests, not just the elevation of one interest over another. To the extent that government has information that relates to private individuals, it's in the interest of those individuals to protect it, and that interest in privacy must be reflected in the law. As computer technology increases, and vast databases can be created and used by government to provide individualized services – like the little postcard that the Department of Licensing sends you on every fifth birthday, reminding you to renew your license – government becomes able to keep and use more and more personal information. We all like the service, but if government is to record our birthdays, the cost is greater personal exposure to mischief.

So what do we do? We're not going to repeal the Public Disclosure Act, and we're not going to alter its presumption favoring disclosure. That's not going to happen. We can enact more of those little exemptions. Last I looked, we were into four-letter subsections. We can always do more of those, protecting, say, the personal information of drivers whose stuff is known to the Department of Licensing, or the birthdays of Seattle city employees, or the nutritional supplements used by Husky and Cougar linebackers. (But I kind of liked it when during the drought several summers ago, the P-I published the names of the biggest residential water users, the folks who watered their acres of lawns despite the Mayor's urgings, so very un-Seattle. Didn't you enjoy that?)

No, I don't yet have an idea where to draw the line, and my bill doesn't set one. It simply collects the information that will allow us to draw it, and to balance the public good in transparency with the competing public good in personal privacy.

# Health Insurance for Small Businesses

In six months, we'll see some light at the end of the tunnel for those responsible small-business employers who want to provide health coverage for their employees. Legislators had become aware that the increase in health care costs – that sector had an inflation rate many times that of the Consumer Price Index – had made it difficult for small businesses to afford health plans, and that many had dropped them, thus contributing to the growing number of uninsured workers.

Last year, we created the Small Business Health Insurance Partnership, a pilot project in what I hope will be a larger effort to assist businesses with less than 50 employees. The employer will offer employer-sponsored health insurance coverage, and pay at least 40% of an employee's monthly premium. The Partnership will reimburse the employee for a portion of his or her share of the premium, depending on the employee's income and family size. To be eligible, the employee must have an income of less than 200% of the federal poverty level, which is currently $17,960 for an individual and $30,520 for a family of three. The program uses a sliding scale, so lower income employees will receive a slightly higher benefit. It is anticipated that plans will have an average premium of about $90 per month, and there will be a maximum of 2,000 workers covered at any time.

The Partnership is based upon a program in Oregon that assists about 5,000 low-wage workers and their employers. At 2,000 slots, this will hardly be a panacea for Washington's 800,000 uninsured people, most of them kids. Because total state expenditures will be limited to the $500,000 we allocated, it will take a constant and concerted effort by those of us who support this program to make sure that future Legislatures expand the number of slots once the program is under way.

If you are a small business owner, or an employee who might qualify, please give me a call at 1.800.562.6000, and I'll get you in touch with the folks at the Partnership. Coverage will start July 1, 2007.

# Eminent Domain and Southeast Seattle

For as many years as I've been an activist for strong growth management laws, I have listened with some concern to voices on the far right singing the praises of property rights and decrying the tendency of Big Gummint to "take" property by imposing environmental regulations or land-use and zoning laws. Twice in the last 12 years, conservatives have brought initiatives that would characterize virtually any restriction on the use of land as a "taking" of property, and thus subject it to condemnation procedures and huge government outlays. Both times, reason won out and the initiatives lost.

Now, however, we are hearing similar concerns about real government takings of property, through the power of eminent domain, this time stated in a more modulated and more reasonable tone by community-conscious folks who exert real leadership in Southeast Seattle. We may indeed have a problem with our current state law on this subject, and I feel a review is needed.

In June, 2005, the U.S. Supreme Court decided *Kelo v. City of New London*, in which it upheld that city's right to condemn "blighted" property, to force residents to accept a court-ordered sale of that property (in some cases, their homes) to the city, which then entered into an agreement with a developer for a residential and commercial development meant in the main for private, not public, ownership. The city argued that the transfer of the property from one set of private owners to another accomplished a *public purpose* in which the city had a legitimate interest – civic improvement, a more active economy, and increased tax revenues. Public *purpose*, not public *ownership*, is the touchstone of legitimacy, the Supremes agreed, and upheld the city's argument.

Since then, right-wing think-tanks have had a field day promoting the sense of injustice that normal folks feel at the sight of struggling homeowners evicted by local bureaucrats for the sake of condos and big-box retail. Not a pretty sight – neither the actual injustice nor the exaggeration of it by the property-rights advocates.

Here in Southeast Seattle, we know a thing or two about urban blight. Those of us who lived here through the 1970's and well into the 1980's will recall entire blocks of boarded up storefronts, empty houses graffiti-covered and vandalized, garbage dumped in empty lots, trash-strewn abandoned buildings – urban decay you could smell. It's going, though not yet gone, thanks to a growing economy and a whole lot of community-conscious folks who have this thing about "giving back" to their neighbors.

With this much-sought economic improvement comes the flip-side: gentrification. The generation who came to Rainier Valley during World War II, when jobs were to be had just a bus-ride away at Boeing, are seniors now, typically on fixed incomes. These are the folks who bought modest homes in a working-class, ethnically diverse, district and kept them up, and then survived the tough times, and now are retired. Enter Sound Transit, and the renaissance of the MLK corridor, as evidenced by the blocks of new condos and apartments. Word has it that high property values and resulting high taxes are taking their toll among these folks, and there's anecdotal evidence at least that a trend has developed of home sales to wealthier young families.

Recent steps by the Mayor and City Council to identify and assist blighted areas in Southeast Seattle might, in some other legal context, be welcomed by the community. We do, after all, have a provision in our state constitution that "Private property shall not be taken for private use." But even reasonable folks have to ask whether "blighted" areas in an otherwise recovering part of town might be sought by developers, and that they might seek some official "blight" designation as the pretext for a *Kelo*-style use of eminent domain.

Legislative action is in order. First, we can define "blight" in objective economic terms, so that it is limited to those areas in which city intervention can be economically justified. Second, we can remedy a defect in our notice requirements. In this city, in which our former city attorney noted famously that "process" is our most important product, we should make clear that notice by e-mail isn't good enough when the agency is considering a condemnation of your property. Current state law allows that, and will be changed by SB5444, a bill requested by the Attorney General that I brought before the Judiciary Committee this year.

There is a balance to be reached here, between the cities' need for tools to combat *real* urban blight, and the right of people to be assured that their property can't be condemned because it isn't upscale enough.

Senator Adam Kline
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